

# **EXHIBIT H**

DENNIS MCCARTHY June 12, 2008

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

OAKLAND DIVISION

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COPART INC., :  
 :  
Plaintiff, :  
 :  
vs. :  
 : Case No.  
 : C 07 2684 CW  
CRUM & FORSTER INDEMNITY :  
COMPANY, UNITED STATES FIRE :  
INSURANCE COMPANY, and DOES :  
1-10, Inclusive, :  
 :  
Defendants. :  
 :  
----- -x  
UNITED STATES FIRE INSURANCE :  
COMPANY, :  
 :  
Counterclaimant, :  
 :  
vs. :  
 :  
COPART, INC., :  
 :  
Counterdefendant. :  
 :  
----- -x

VIDEOTAPED DEPOSITION of DENNIS MCCARTHY,  
taken by the Plaintiff, at the offices of MERRILL  
LEGAL SOLUTIONS, 60 Park Avenue, Newark, New Jersey,  
on Thursday June 12, 2008 commencing at 9:47 a.m.,  
before Jamie I. Moskowitz, CSR, RPR, CRR, a Certified  
Shorthand (Stenotype) Reporter and Notary Public  
within and for the State of New Jersey.

1 D. McCarthy

2 information in the SOV?

3 A No.

4 Q Let's talk about the training you  
5 provide or your department provides concerning how  
6 to do an SOV.

7 What do you tell your training  
8 personnel to look for in an SOV?

9 A To look for covered property and  
10 values.

11 Q And when you say covered property,  
12 what do you mean?

13 A A description of the building and  
14 the value placed against it. A description of the  
15 contents and a value placed against it. A  
16 description of the business interruption and a  
17 value placed next to it.

18 Q Can you tell me, in Crum & Forster's  
19 property policy, is there any provision that tells  
20 the insured that they will not have coverage for a  
21 particular location if there are certain values  
22 that are not stated in an SOV?

23 MS. MILLIKAN: Objection,  
24 overbroad, lacks foundation, vague and  
25 ambiguous. If you can answer that

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2 question, you can go ahead.

3 A I'm not able to answer that  
4 question.

5 Q Why aren't you able to answer the  
6 question?

7 A Because it's vague to me.

8 Q Okay, let's get more specific, then.  
9 In your experience with handling property claims  
10 since 2003, since your promotion, are you aware of  
11 any provision in any Crum & Forster property  
12 policy that tells the insured their coverage is  
13 dependent on the value stated in a Schedule of  
14 Values?

15 MS. MILLIKAN: Same  
16 objections, but if you can answer the  
17 question, go ahead.

18 A I mean, I'm unable to answer that.

19 Q Why?

20 MS. MILLIKAN: Well, counsel,  
21 you have asked him about every single  
22 property policy ever issued by Crum &  
23 Forster since 2003, and you wonder why  
24 he can't answer about what the terms  
25 of every policy were?

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2 MS. PURI: You don't have to  
3 coach. He can answer.

4 MS. MILLIKAN: He just told  
5 you he can't answer.

6 MS. PURI: Are you instructing  
7 him not to answer my question as to  
8 why?

9 MS. MILLIKAN: I'm not.

10 BY MS. PURI:

11 Q Why are you having difficulty with  
12 the question about the property policy?

13 A I think the policy speaks for  
14 itself. So you're asking me if a certain phrase  
15 or clause exists in the policy --

16 Q Exactly.

17 A -- that alerts a policyholder that,  
18 you know, should a certain set of circumstances  
19 occur, that there's no coverage and it's just too  
20 vague for me.

21 Q Okay, let's look at what was  
22 previously marked as Exhibit 100, and I will  
23 represent to you that this is a property policy  
24 that was issued by Crum & Forster to Copart for  
25 2005 and 2006.

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2 And if you want to take a moment to  
3 look through it, have you seen this policy before  
4 today?

5 A Well, I'm sure I read it back when a  
6 decision was made to adjust the claim.

7 Q Okay. And are the forms something  
8 that you're sufficiently familiar with in your  
9 capacity as vice president of claims?

10 A Yes.

11 Q So my question is with respect to  
12 this policy: Is there any provision in this  
13 policy that tells the insured they will have no  
14 coverage if a value is not listed on the Schedule  
15 of Values?

16 MS. MILLIKAN: Objection to  
17 the question, to the extent it calls  
18 for a legal conclusion, but you may  
19 answer it.

20 A Bear with me. Would you like the  
21 page number?

22 Q I would, please.

23 A POL0240.

24 Q And tell me what provision. Read it  
25 to me, for the record, what you are looking at.

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2 A It is the CP0010 edition date 1000  
3 and it's called the Building and Personal Property  
4 Coverage Form.

5 Q And what provision in that form  
6 specifically tells the insured he will have no  
7 coverage if a value is not listed in the Statement  
8 of Values?

9 A Under A: "We will pay for direct  
10 physical loss of or damage to covered property at  
11 the premises described in the declarations caused  
12 by or resulting from any covered cause of loss."

13 And thereunder, under subparagraph  
14 1, Covered Property it lists; building, your  
15 business personal property, personal property of  
16 others, okay?

17 So what it's basically telling the  
18 insured, and I'm not going to recite the paragraph  
19 again, it's asking the policyholder to now refer  
20 to the declarations.

21 Q Okay. And where in the declarations  
22 does it refer to the fact that if there is not a  
23 value listed in the Schedule of Values it will not  
24 be covered?

25 A Page POL0222 under Commercial

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2 Property Coverage Part Supplemental Declarations,  
3 under item 4 it says: "Building, business,  
4 personal property and business income other than  
5 rental."  
6 And then it says under item 2: "See  
7 Schedule of Locations."  
8 Q And where is the Schedule of  
9 Locations?  
10 A Bear with me.  
11 Q That's fine.  
12 A POL0232, Schedule of Locations, it  
13 says: "As per schedule on file with company."  
14 Q Is Schedule of Locations, as far as  
15 you know, defined anywhere in the policy?  
16 A I don't believe so, but it's such a  
17 common practice and so well-known I don't believe  
18 it needs to be defined.  
19 Q And on that Schedule of Locations  
20 form that you're looking at in front of you, is  
21 there a section called Description right above  
22 where the typewritten section is?  
23 A It says: "Designated Locations,  
24 address, city, state and zip code."  
25 Q So is that what's supposed to be in



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2 the Schedule of Locations?

3 A That plus the values.

4 Q How would an insured know that  
5 values are supposed to be in the Schedule of  
6 Values based on that document that you're looking  
7 at?

8 MS. MILLIKAN: Objection,  
9 calls for speculation. If you can  
10 answer the question, go ahead.

11 A I can't -- I can't speak on what a  
12 policyholder thinks, but I certainly would hope  
13 that the broker would explain it to the  
14 policyholder.

15 Q And have you, in your time as VP of  
16 claims, explained to brokers or the insureds or  
17 your claims personnel that explain to the broker  
18 the importance of what needs to go into an SOV?

19 A Sure.

20 Q Do you do any kind of training with  
21 brokers or is it more of an informal discussion  
22 about what needs to be done to underwrite a  
23 policy?

24 A I can't answer that. That's more of  
25 an underwriting question. I'm sure that -- I'm

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2 sure there's some brokers that are very  
3 intelligent about the process and there could be  
4 others that need to be coached or trained by our  
5 underwriting department.

6 Q And does Crum & Forster write  
7 policies directly to the policyholder?

8 In other words, can you just call up  
9 an insured and say we're going to write up a  
10 policy and talk terms or is it all done through a  
11 broker and --

12 MS. MILLIKAN: Objection to  
13 the form, but if you know, you can  
14 answer.

15 A It's all done through a broker.  
16 We're not a direct writer.

17 Q And in that Exhibit 100 that I'm  
18 showing you, do you see a Schedule of Values  
19 anywhere in that exhibit?

20 I'll represent that that's the  
21 entire policy as it has been given to us.

22 MS. MILLIKAN: Obviously the  
23 document speaks for itself, and what  
24 is the exhibit or isn't the exhibit  
25 speaks for itself. You're into other